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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,150	03/29/2004	Raymond Lynn Neff	RFTRAX01	5424
7590 06/15/2005			EXAMINER	
G. Marlin Knight Hoyt & Knight PO Box 1320 Pioneer, CA 95666			SWARTHOUT, BRENT	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/813,150

Applicant(s)

NEFF ET AL.

Examiner

Brent A. Swarthout

Art Unit

2636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-2-04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: No claim 13 was filed. Therefore, originally filed claims 14-17 have been renumbered as claims 13-16..

1. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 12, "the microprocessor" has no antecedent basis.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

a. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al.

Akiyama discloses a monitoring unit comprising power supply 37, sensor 74a, monitoring electronics including a microprocessor 301, memory 70, recording sensor changes as an event when data is within reference values (col.9, line 63), and transmitter 20 for transmitting data to a reader 200, except for specifically stating that microprocessor has a program. It would have been obvious to one of ordinary skill in the art to include programming for the microprocessor of Akiyama in order to allow it to function to process sensed data for transmission to a reader 200, since a microprocessor normally receives program instructions to operate

Regarding claim 2, Akiyama discloses receiver 20 for receiving commands from reader 200 (col.4, lines 32-60).

3. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. in view of Ghaffari.

Ghaffari discloses desirability in a monitoring device system of placing a device in a sleep mode, and to periodically wake up the device (col.9, lines 51-59).

It would have been obvious to include sleep mode as suggested by Ghaffari in a system as disclosed by Akiyama, in order to preserve power so tags would operate longer without needing replacement.

Regarding claim 4, Akiyama teaches use of thresholds for trigger event (col.9, line 63).

Regarding claim 5, Akiyama teaches use of storing data with time information (col.4, line 2).

Regarding claim 6, since Ghaffari teaches use with warehousing, transport, delivery, retail inventory, security and theft prevention (col.2, line 56), choosing to identify a container would have been obvious, since this would have been a well-known placement location for a tag in the above mentioned areas of use.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. in view of Ghaffari and Shanks et al.

Shanks teaches desirability of transmitting sensor information including identification back to a reader after interrogation (col. 3, paragraph 25).

It would have been obvious to include sensor ID in a transmission as suggested by Shanks in a system as disclosed by Akiyama and Ghaffari, in order

to allow someone monitoring the system to know which sensor was activated in case a plurality of sensors were in use.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. in view of Ohta et al.

Ohta discloses desirability of sending a transmission from reader 301 to change the data at a monitoring unit 401 (col.7, lines 25-45).

It would have been obvious to use reader control of data at a tag as suggested by Ohta in a system as disclosed by Akiyama, in order to allow a tag to be reprogrammed without having to be taken out of service.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Akiyama et al. in view of Hardman et al.

b. Hardman discloses desirability of sensing event data at a tag and transmitting it in real time (col. 13).

It would have been obvious to transmit event data in real time as suggested by Hardman in a system as disclosed by Akiyama, in order that system supervisors could have been made aware of out of tolerance conditions at the earliest possible time, in order to make corrections/alerts sooner.

7. Claims 10,11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Akiyama et al.

Levy discloses a system for attaching monitoring units 10 to inside surface of shipping containers 12, including sensor 18, electronics 23 and transmitting means 24, for providing sensed outputs to a reader 13.

As stated above, Akiyama discloses desirability of radioing a start command from a reader (col.4, lines 29-36), logging event data in memory (col. 4, line 48; col.9, lines 60-65), recording time data (col.4, line 2), and radioing a response to a reader (col. 4, lines 49-50).

It would have been obvious to use reader/tag transmission characteristics as suggested by Akiyama in a container monitoring system as disclosed by Levy, in order to ensure accurate transmission of data back to a reader device.

Regarding claim 11, Akiyama discloses desirability of receiving identification from reader (col.4, line 33) and transmitting identification back to reader along with measured data (col.2, lines 58-60).

Regarding claim 15, Akiyama teaches desirability of transmitting commands to a tag (col. 4, lines 51-60), the tag including reference values for comparison to determine if an event has occurred (col. 9, lines 61-65).

8. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Akiyama et al. and Ghaffari.

Claims are rejected for the same reasons as set forth above with regard to claims 3-6.

9. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Levy in view of Akiyama et al. and Shanks et al.

Claims are rejected for the same reasons as set forth previously with regard to claim 7.

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

c. Claim 16 is rejected under 35 U.S.C. 102(e) as being anticipated by Script et al.


Script discloses a method of monitoring objects passing into a point comprising attaching a monitoring unit 20 to a point (Fig. 1), the unit comprising a transmitter 4 , electronics (Fig. 7), and a proximity sensor 22 (page 3, paragraph 53), and transmitting data to a reader 30 upon sensing a change in the proximity sensor.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis, Runyon and Watters disclose tag systems.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A. Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brent A Swarthout
Examiner
Art Unit 2636

**BRENT A. SWARTHOUT
PRIMARY EXAMINER**